

MONTGOMERY COUNTY, STATE OF MARYLAND

**DAMASCUS MANOR TOWNHOUSE
ASSOCIATION, INC.**

Complainant,

v.

ROBERT A. AMORUSO,

Respondent.

Panel Chair Memorandum By: Ursula A. Koenig

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: COMMISSION ON COMMON
: OWNERSHIP COMMUNITIES
:
: Case No. 45-06
:
: Panel Hearing Date: May 23, 2007
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: Decision Issued:
: (Panel: Koenig, Maloney, Perlingiero)
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MEMORANDUM DECISION AND ORDER

The above-captioned case came before a Hearing Panel of the Commission on Common Ownership Communities for Montgomery County, Maryland (the “Commission”), for hearing pursuant to Chapter 10B of the Montgomery County Code 2004, as amended. The duly appointed Hearing Panel considered the testimony and evidence of record and finds, determines and orders as follows:

PROCEDURAL BACKGROUND

On July 11, 2006, the Complainant, Damascus Manor Townhouse Association, Inc. (“Damascus Manor” or the “Association”) filed a complaint with the Commission related to the exterior maintenance of the property owned by the Respondent, Robert A. Amoruso (“Amoruso”). Amoruso responded by letter dated August 4, 2006 to the Commission indicating that he was in the process of complying with the requests of Damascus Manor. The Board of Directors of Damascus Manor agreed to give Amoruso until October 31, 2006 to comply and the Commission staff sent Amoruso a letter advising him of this fact on September 14, 2006. On November 6, 2006, the staff sent Amoruso a letter advising him that the Association claimed that

the work had not be completed as required and that the Association wanted to proceed with the dispute. The letter provided information regarding mediation, but the parties did not elect to use mediation. The Commission accepted jurisdiction of the dispute on April 11, 2007 and the matter was scheduled for hearing before this panel on May 23, 2007.

FINDINGS OF FACT

Damascus Manor presented testimony and photographic evidence at the hearing.

Amoruso conceded that the violations existed. Accordingly, the following facts are uncontested:

1. Complainant Damascus Manor is the governing body of a Maryland incorporated homeowners association within the meaning of the Maryland Homeowners Association Act, Real Property, Section 11B-101, *et. seq.*, Annotated Code of Maryland. Damascus Manor employs a professional management company.

2. Respondent Amoruso owns a lot located within the Damascus Manor subdivision and is bound by Damascus Manor's governing documents, including the Declaration of Covenants and Restrictions (the "Declaration"), By-laws, Resolutions and Architectural Guidelines and Regulations (the "Guidelines").

3. Article VI, Section 2 of the Declaration requires owners to maintain their lots.

4. Amoruso's unit has rotting wood around the front door frame and at least one window, he has mildew/mold on the side of his townhouse and he has damaged siding on the back side of his home. All of these conditions violate the Declaration.

5. Article X, Section 3 of the Guidelines prohibits plants from intruding into neighboring yards or common areas.

6. There is a tree located on Amoruso's property which is growing into the common area in violation of the Guidelines.

7. Article VIII, Section (k) of the Declaration allows owners to store “materials for construction, repair or maintenance [on the lot], provided such storage is approved by the Environmental Protection Board (the “EPB”). The EPB is the board charged with enforcing architectural guidelines and exterior standards for Damascus Manor.

8. Amoruso is storing maintenance items, including a shovel, outside his front door, without approval from the EPB in violation of the Declaration.

9. Article II, Section 1 of the Guidelines provides that storm windows must match the existing window frames.

10. Amoruso has removed a screen from one of the front windows and has failed to replace it in violation of the Guidelines.

11. Amoruso has asked for time to complete all of these repairs and to review whether the tree may be trimmed or whether it needs to be completely removed, at his expense.

CONCLUSION OF LAW

Based on the admissions by the Respondent that he is in violation of the Complainant’s governing documents, this panel finds that the Respondent must make the necessary repairs to bring his home into compliance with the Association’s governing documents.

ORDER

Within 45 days from the effective date of this Order, the Respondent must:

1. Replace all rotting wood around the front door frame and windows of the Respondent’s unit;
2. Remove mold and mildew from the side of the Respondent’s unit and replace all damaged siding located in the rear of the unit.

3. Trim the overgrown tree in the front yard so that it does not encroach on common area.

If this is not feasible, then the entire tree must be removed.

4. Remove any maintenance items stored outside the front door of the unit without prior approval.

5. Replace the screen in the front window that was removed.

Commissioners Maloney and Perlingiero concurred in this opinion.

Any party aggrieved by the action of the Commission may file an appeal to the Circuit Court of Montgomery County, Maryland, within thirty (30) days of the date of this Order pursuant to the Maryland Rules of Procedure governing administrative appeals

Ursula A. Koenig, Panel Chair
July 24, 2007